

November 15, 2007

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L06P0021**
Proposed Ordinance No. **2007-0490**

RIDGEWOOD LANE SUBDIVISION

Preliminary Plat Application

Location: 16228 Southeast Petrovitsky Road

Applicant: **Landtrust, Inc.**
Attn: Patrick Gilroy
1520 – 140th Avenue Southeast, Suite 200
Bellevue, Washington 98005

King County: Department of Development and Environmental Services (DDES)
represented by **Fereshteh Dehkordi**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7173
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions (modified)
Examiner's Decision:	Approve, subject to conditions (modified)

EXAMINER PROCEEDINGS:

Hearing Opened:	November 6, 2007
Hearing Continued for Administrative Purposes	November 6, 2007
Hearing Closed:	November 7, 2007

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES AND TOPICS ADDRESSED: Access, fire and emergency vehicle access, surface water drainage, wetland mitigation, tree retention.

SUMMARY: The proposed subdivision of 12 lots in the urban area is approved subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer: Landtrust, Inc.
Patrick Gilroy
1520 140th Avenue NE, # 200
Bellevue, WA 98005

Engineer: Core Design
14711 NE 29th Place, Suite 101
Bellevue, WA 98007

STR: NE ¼ 35-23-5
Location: 16228 SE Petrovitsky Road, Renton

Zoning: Residential 6du/acre, (R-6)
Acreage: 2 acres
Number of Lots: 12
Density: 6 du/acre
Lot Size: 3,500 to 4,885 square feet
Proposed Use: Residential

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the November 6, 2007, public hearing are found to be correct and are incorporated herein by this reference. The LUSD staff recommends approval of the application, subject to conditions.

The applicant presented the technical committee with a second revised plat on August 2, 2007.

3. The King County Department of Transportation Traffic Engineer reviewed access to the proposed subdivision. Alternatives of access from Southeast Petrovitsky Road and 162nd Place Southeast were considered. Allowing access directly to Southeast Petrovitsky Road would impede the functioning of the arterial. 162nd Place Southeast, adjacent to the west boundary of the subject property, is a neighborhood collector, with a 58 foot right-of-way. The access road for the subject property would be adjacent to the school driveway immediately north of the subject property. However, the school driveway is an entrance only, and there is no spacing requirement in the King County Road Standards that would apply to the space between the

proposed road A and the existing school driveway. Road A is proposed at a location which provides for a separation of approximately 175 feet from Southeast Petrovitsky Road, measured center line to center line. No variance from the King County Road Standards is required for the construction of road A as proposed.

4. There are three curb cuts that currently exist on the subject property along Southeast Petrovitsky Road. One of these curb cuts is proposed to be retained to serve the detention tract (Tract A). The remaining two curb cuts will be removed as part of the plat improvements.
5. The King County Fire Protection Engineer has proposed that all future residences constructed on lots 2 through 12 be sprinklered unless that requirement is removed by the Fire Marshal or his/her designee. This requirement is based upon the fire code provision that a minimum 20 foot wide unobstructed driving surface be provided to within 150 feet of each building. The Fire Protection Engineer's current position is that to qualify for removal of the sprinkler requirement, road A must be a minimum of 28 feet in width when parking is allowed on one side of the roadway. The permitted density of development limits the space available for parking on the proposed lots. Consequently, parking on proposed road A is likely. "No parking" restrictions would be difficult to enforce.

The applicant proposes that road A be constructed as a minor access road, which requires only 22 feet of traveled right-of-way. The applicant also proposes that road A be a private road. Alternative unobstructed fire and emergency access to some of the lots may be available from Southeast Petrovitsky Road, subject to access being available across Tract "A".

The King County Fire Marshal and Fire Protection Engineer are charged with the responsibility for enforcement of the Uniform Fire Code, as adopted by King County.

6. The King County Department of Development and Environmental Services and Department of Transportation concur that road A may be a private road, and that the "minor access" designation is appropriate.
7. The Class IV wetland on the subject property is proposed to be filled, and mitigation for the loss of wetland and wetland buffer may be provided off-site in accordance with the King County Critical Areas Code.
8. The on-site storm water retention will be provided by an underground vault, sized to control discharge of stormwater consistent with the "conservation flow" standard. This standard provides reasonable protection against downstream erosion. There are no downstream complaints applicable to discharge of stormwater from the subject property within one-quarter mile of the proposed discharge point. A regional detention pond exists approximately three-quarters of a mile downstream from the site, to mitigate impacts of flows downstream from the pond.
9. Track C, proposed to lie between road A and the north property line, is anticipated to be in large part a rockery, which will provide a transition between road A and the higher elevation of the adjacent property to the north. Track C could be incorporated into road A, or maintained as a separate tract. In either event it will be maintained by a homeowner's association.

10. Significant trees on the subject property will subject to a tree mitigation and retention plan. The significant trees on the site are concentrated primarily within the southerly portion of proposed lot seven, where they will be maintained to the extent that it is feasible to do so.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare, and for open spaces, drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreation, playgrounds, schools and school grounds and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable and proportionate requirements necessary to mitigate the impacts of the development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the proposed revised preliminary plat submitted by the applicant on August 2, 2007, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.
5. The sole jurisdiction for determining compliance of the proposed lots and buildings to be constructed thereon with the Uniform Fire Code, as adopted by King County, is vested in the King County Fire Marshal. Determinations for the requirements of sprinklers and/or unobstructed fire lanes shall be made by the Fire Marshal.

DECISION:

The proposed subdivision of Ridgewood Lane, as revised and received on August 2, 2007, is granted preliminary approval, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code. Requirements shall apply to all plats.
 - a. Drainage plans and analysis shall comply with the 2005 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
 - d. The following conditions specifically address drainage issues for this particular plat:
 - i. The drainage facilities shall meet the requirements of the 2005 King County Surface Water Design Manual (KCSWDM) for construction of a drainage facility subject to the Conservation flow control and Basic water quality requirements of the 2005 KCSWDM.
 - ii. A drainage adjustment (KC File L07V0039), is approved for this site (see Attachment 2). All conditions of approval for this adjustment shall be met prior to approval of the engineering plans.
 - iii. To implement the required Best Management Practices (BMP's) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2005 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for

implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.

7. The following road improvements are required for this subdivision to be constructed according to the 1993 King County Road Standards:
 - a. Road A shall be improved at a minimum to the urban minor access street standard.
 - b. Lots 9 and 10 shall have undivided ownership of Tract B and be responsible for its maintenance. Tract B shall be 20 feet wide and improved with an 18-foot-wide paved surface. A note to this effect shall be placed on the engineering plans and final plat.
 - c. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
 - d. There shall be no direct vehicular access to or from SE Petrovitsky Road and 162nd Place SE from those lots which abut them. A note to this effect shall appear on the engineering plans and final plat.
 - e. Eight feet of additional right-of-way for SE Petrovitsky Road shall be dedicated along the south property line, allowing for 42 feet of right-of-way from the centerline.
 - f. One existing curb cut along Southeast Petrovitsky Road may be used for access to the drainage tract and emergency access to lots 2-9 if approved by the review engineer. The remaining curb cuts along Southeast Petrovitsky Road shall be removed and the curb and gutter along the road shall be restored.
8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
11. A planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or

homeowners association. This shall be stated on the face of the final plat.

12. The site contains a 1491-square foot, Category IV wetland. The applicant proposes to fill the small wetland based on KKC 21A.24. This wetland may be impacted as proposed with compensating mitigation for both the wetland and buffer loss. This mitigation may be off site, or via the fee-in-lieu program. A final mitigation proposal and plan shall be submitted during engineering review for review and approval by the Critical Area staff.
13. (Deleted; see above)
14. (Deleted)
15. A fee-in-lieu of recreation space shall be paid by the applicant to King County. The amount of the fee shall be determined by the King County Parks Division, consistent with the provisions of KCC 21A.14.185.
16. Street trees shall be provided as follows:
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along Road A. Spacing may be modified to accommodate sight distance requirements for driveways and intersections. The spacing may be reduced if planting is on the north side of the cul-de-sac road.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one

year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

- h. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.
- 17. This project is subject to King County Code Section 16.82.156 governing the retention and replacement of significant trees on the site. Construction plans shall demonstrate the manner in which the requirements of this section shall be met.
- 18. A Homeowner's Association shall be established for ownership and maintenance of the private Road A and adjacent Tract C (which may be combined with Road A).

ORDERED this 15th day of November, 2007.

James N. O'Connor
King County Hearing Examiner *pro tem*

TRANSMITTED this 15th day of November, 2007, to the parties and interested persons of record:

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15209 SE Fairwood Blvd
Renton WA 98058

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NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before November 29, 2007***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before December 6, 2007***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE NOVEMBER 6, 2007, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L06P0021.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Fereshteh Dehkordi, Kristen Langley, and Bruce Whittaker, representing the Department; Patrick Gilroy, representing the Applicant, and William Mudd, James Morin and Lafe Hermansen.

The following Exhibits were offered and entered into the record:

- | | |
|----------------|--|
| Exhibit No. 1 | Department of Development and Environmental Services file no. L06P0021 |
| Exhibit No. 2 | Department of Development and Environmental Services Preliminary Report, dated November 6, 2007 |
| Exhibit No. 3 | Application for Land Use Permits received October 24, 2006 |
| Exhibit No. 4 | SEPA checklist received October 24, 2006 |
| Exhibit No. 5 | SEPA Determination of Non-Significance issued September 21, 2007 |
| Exhibit No. 6 | Affidavit of Posting indicating a posting date of December 6, 2006; received by DDES on December 7, 2006 |
| Exhibit No. 7 | Revised Preliminary plat map received August 2, 2007 |
| Exhibit No. 8 | Assessors Maps NW 36-23-05 & NE 35-23-05 |
| Exhibit No. 9 | Conceptual drainage plan dated August 2, 2007 |
| Exhibit No. 10 | Level I Drainage Analysis report by Core Design, Inc. dated October 2006 and revised April 2007 |
| Exhibit No. 11 | Wetland Delineation report by Chad Armour, LLC dated May 1, 2007 |
| Exhibit No. 12 | KCSWDM adjustment decision approved August 23, 2007 |
| Exhibit No. 13 | Letter from Patrick Gilroy of Core Design, Inc. to DDES dated October 23, 2007 |

- Exhibit No. 14 Email from Kristen Langley
- Exhibit No. 15 Rewording of conditions
- Exhibit No. 16 2006 aerial photograph of the neighborhood
- Exhibit No. 17 Email chain from Fereshteh Dehkordi and Patrick Gilroy with corrected attachment
dated November 7, 2007

JNOC:gao
L06P0021 RPT